

**UNITED STATES OF AMERICA  
BEFORE THE NATIONAL LABOR RELATIONS BOARD  
SEVENTH REGION**

**SUPREME HEATING AND SUPPLY CO., INC.<sup>1/</sup>  
COLUMBIA CONSTRUCTION SERVICES-MICHIGAN, INC.  
SALVAGE ONE LEASING CO., INC.**

**Joint Employers**

**and**

**Case 7-RC-22304**

**LOCAL 636, UNITED ASSOCIATION OF  
JOURNEYMEN AND APPRENTICES OF THE  
PLUMBING AND PIPE FITTING INDUSTRY OF  
THE UNITED STATES AND CANADA, AFL-CIO**

**and**

**LOCAL 98, UNITED ASSOCIATION JOURNEYMEN  
AND APPRENTICES OF THE PLUMBING AND  
PIPE FITTING INDUSTRY OF THE UNITED STATES  
AND CANADA, AFL-CIO**

**and**

**LOCAL 80, SHEET METAL WORKERS'  
INTERNATIONAL ASSOCIATION, AFL-CIO**

**and**

**LOCAL 58, INTERNATIONAL BROTHERHOOD  
OF ELECTRICAL WORKERS, AFL-CIO,**

**Joint Petitioners**

**APPEARANCES**

**A. David Mikesell**, Attorney, of Detroit, Michigan, for the Joint Employers.  
**J. Douglas Korney**, Attorney, of Bingham Farms, Michigan for the Joint Petitioners.

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<sup>1</sup> The Employers' names appear as amended at the hearing.

## **DECISION AND DIRECTION OF ELECTION**

Upon a petition duly filed under Section 9(c) of the National Labor Relations Act, as amended, hereinafter referred to as the Act, a hearing was held before a hearing officer of the National Labor Relations Board hereinafter referred to as the Board.

Pursuant to the provisions of Section 3(b) of the Act, the Board has delegated its authority in this proceeding to the undersigned.

Upon the entire record in this proceeding,<sup>2/</sup> the undersigned finds:

1. The hearing officer's rulings made at the hearing are free from prejudicial error and are hereby affirmed.
2. The Employers are engaged in commerce within the meaning of the Act, and it will effectuate the purposes of the Act to assert jurisdiction herein.
3. The labor organizations involved claim to represent certain employees of the Employers.
4. A question affecting commerce exists concerning the representation of certain employees of the Employers within the meaning of Section 9(c)(1) and Sections 2(6) and (7) of the Act.

### **Overview**

Petitioners seek to jointly represent approximately 30 employees in a combined unit of pipefitters, plumbers, electrical, and sheet metal workers, including service technicians who perform work in these trades,<sup>3/</sup> employed by the Employers at their Detroit, Michigan facility; but excluding managers, guards and supervisors as defined by the Act and all other employees. The Employers assert that the petitioned-for unit must also include approximately 23 employees in the classifications of laborers, drivers, mechanics, production foremen, project foremen, other foremen classifications, and employees who serve as crew leaders on particular jobs.

I conclude that the additional classifications proposed by the Employers, which would essentially result in a wall-to-wall unit of employees, should be included in the petitioned-for unit. While the unit proposed by Petitioners contains at least one craft

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<sup>2</sup> The Employers and Petitioners filed briefs, which were carefully considered.

<sup>3</sup> The Petitioners assert that service technicians are either sheet metal workers or pipefitters.

person, a master plumber, it is questionable whether employees in the other classifications sought by the Petitioners are true craft employees. Thus, there are other employees, while skilled, that are not licensed. Employees from the group sought to be added by the Employers have been promoted into these more skilled classifications, and the work of the employees in the additional classifications is functionally integrated with the work of the petitioned-for employees. Further, there is substantial interchange and overlapping of duties between all the classifications. The employees in the wall-to-wall unit proposed by the Employers share a number of community-of-interest factors including the same benefits and common supervision. If the unit sought by Petitioners were a true multi-craft unit, I would not include the additional classification sought to be added by the Employers. *Burns & Roe Services Corp.*, 313 NLRB 1307 (1994). Furthermore, I conclude that the individuals in the foremen classifications are not supervisors under the Act.

## **The Employers**

Columbia Construction Services-Michigan, Inc. (Columbia) is a general contractor engaged in the business of commercial construction projects. Supreme Heating & Supply Co., Inc. (Supreme) installs and repairs HVAC systems for residential and commercial customers in southeast Michigan. Supreme does not engage in new fabrication or installation except when it acts as a subcontractor for Columbia. Supreme completes 6 or 7 large commercial boilers a year and approximately 50 smaller residential and commercial boilers. The larger commercial projects account for 35 to 40 percent of the work time of Supreme's employees. Columbia and Supreme are set up as separate companies primarily for financial and tax reasons, and in order to appeal to different markets.

Salvage One Leasing Co., Inc. (Salvage) furnishes employees and related personnel services to Columbia and Supreme. Essentially, Salvage operates as a holding company for Columbia and Supreme. The parties stipulated that Columbia, Supreme, and Salvage jointly employ the employees in dispute. All three Employers operate exclusively from offices and a machine shop located at 14641 East Warren Avenue, Detroit, Michigan. There is no history of collective bargaining with respect to any of the employees involved.

Three brothers own and serve as officers of Columbia, Supreme, and Salvage: Mark, Alfred, and Gary Provenzano. Mark Provenzano is president and CEO of Columbia and Supreme. Alfred Provenzano is vice president of both Columbia and Supreme, and chiefly responsible for design, project management, and selling larger commercial projects for both entities. Gary Provenzano directs Supreme's production department and also serves as vice president for Columbia and Supreme. Gary Provenzano disseminates production information directly to all employees and indirectly

through foremen and crew leaders. Gary Provenzano resolves disputes about materials. Gary Provenzano signs all employees' timesheets and determines their rates of pay.<sup>4</sup> Ten employees, including some foremen, report to both Mark Provenzano and Gary Provenzano. All other employees report to Gary Provenzano only.<sup>5</sup>

## **Daily Operations**

Most employees report to the Warren facility daily to punch a clock, receive job assignments, join a team, and ride the Employers' trucks to arrive at their field location by 7 a.m. Gary Provenzano posts the composition of the teams and their assigned projects on a large board at the Warren facility. He is the only individual with the authority to alter these assignments. Mark Provenzano has input on scheduling employees for Columbia projects but no input with regard to the scheduling of employees for Supreme.

The first name on the team functions as the crew leader for that day. Teams are not limited to individual classifications but can be comprised of a mixture of employees, i.e., pipefitters, laborers, and plumbers. If employees are not assigned to a team, they remain in the shop to fabricate furnaces, boilers, or other components. All the employees work in the shop at some time, although most of the employees in the shop at any given time are laborers. The Employers grant some employees permission to report directly to the field if this is more convenient. At about 2 p.m. every day, Gary Provenzano evaluates the status of the Employers' projects in order to schedule employees for the next day. Unless there is a high priority project, all employees end work at 3:30 p.m.

## **The Employee Classifications<sup>6</sup>**

### *Pipefitters*

The Employers employ six pipefitters. Pipefitters install pipes, pipe insulation, and steam lines among other tasks. They spend 70 percent of their time on pipefitting tasks and 30 percent of their time on other tasks such as pouring slab in a boiler or helping with sheet metal jobs. None of the pipefitters hold professional licenses. Pipefitters spend 50-60 percent of their time on commercial jobs as opposed to residential. The Employers maintain a fleet of pipefitting trucks, and the pipefitters rotate

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<sup>4</sup> The record is silent with regard to the corporate structure of Salvage.

<sup>5</sup> All parties stipulate that Mark, Gary, and Alfred Provenzano are supervisors within the meaning of Section 2(11) of the Act, based on their authority to hire and fire employees. Doug Reed is the only other stipulated supervisor. He is the director of residential markers. The record is otherwise silent with regard to his responsibilities. Neither Petitioners nor Employers seek to include Reed in the unit.

<sup>6</sup> All of the duties of employees in the classifications herein apply regardless of whether the individuals perform work for Supreme or Columbia except for service technicians who perform no work for Columbia.

in driving them to the field. The Employers pay pipefitters from \$10-\$23 an hour. There is no formal training or apprenticeship program for pipefitters.

### *Plumbers*

There are four plumbers employed by the Employers. Plumbers install sanitary lines, storm lines, and toilets for mostly commercial customers. The plumbers earn from \$16-\$32/hour. There is one master plumber, and it is unknown whether any of the other plumbers are licensed. There is no formal training or apprenticeship program for plumbers.

### *Sheet Metal Workers*

Eight employees are within the sheet metal classification. One of these employees is classified as a sheet metal foreman. Sheet metal workers measure, fabricate, and install ductwork. They also demolish and wire furnaces. Most sheet metal work takes place in the shop. Their pay ranges from \$10-\$26 an hour. The sheet metal foreman earns \$28 an hour. He makes drawings at the work site and calls in orders to the shop foreman, subject to the approval of Gary Provenzano. The Employers provide some training to the sheet metal workers on operating machines in the shop, including plasma machines. Sheet metal workers have a special truck with a limited number of tools and sheet metal stock. There is no formal training or apprenticeship program for sheet metal workers.

### *Electricians*

The two electricians employed by the Employers perform most of their work for Supreme. The electricians work with wiring, especially during installation procedures. Electricians work closely with the service technicians. Neither electrician holds a license. One earns \$21 an hour and the other earns \$17- \$18 an hour. There is no formal training or apprenticeship program for the electricians.

### *Service Technicians*

The Employers' 10 service technicians respond to service calls and perform other work in the field. The Employers assign each service technician a truck for their exclusive use that the technicians drive to and from their homes every evening. The Employers hire service technicians based on their knowledge of repair and installation in both commercial and residential projects. At times, service technicians work closely with electricians on wiring tasks, check electrical gauges and double check wiring. Their pay

ranges widely from \$13.50-\$30 an hour. There is no formal training or apprenticeship program for service technicians.

### *Laborers*

The Employers' 11 laborers perform a variety of tasks including hanging lights, placing furnace pads, demolishing and removing old boilers, cutting pipe, insulating pipe, and engaging in duct, prep and welding work in the shop. Laborers work primarily in the field and perform work for both Columbia and Supreme. However, if the shop has too much work, laborers will assist by running machines. The Employers have, on several occasions, promoted laborers to the classifications of service technician, pipefitter, pipefitter foreman, sheet metal foreman, and production foreman. Laborers' pay ranges from \$7-\$16 an hour. Only two laborers earn in the \$16 range: a long term employee and Mark Provenzano's son, Daniel Provenzano.<sup>7</sup> There is no formal training or apprenticeship program for laborers.

### *Mechanic*

The one mechanic, Gary Pringle, fixes trucks and helps fabricate boilers and other items in the shop. Pringle reports directly to Mark Provenzano, although Gary Provenzano closely regulates what is fabricated in the shop. Approximately 80 percent of Pringle's time is spent in the shop. Upon completion of a project in the shop, the mechanic must ensure its successful delivery to the field. Pringle earns \$19 an hour. There is no formal training or apprenticeship program for the mechanic.

### *Driver*

The Employers employ one driver, Clarice Mason, who drives mostly for Supreme, and to a lesser extent, Columbia. It is unknown whether she has a CDL license. If she does, she earns \$12 an hour. If not, she earns \$10 an hour. Mason drives parts from the machining shop to the field and reports to Gary Provenzano, and, on a more limited basis, to Mark Provenzano. There is no formal training or apprenticeship program for the driver.

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<sup>7</sup> Although not raised by any party, Daniel Provenzano may not be eligible to vote in the election ordered here as the son of an owner. *Cenni Motor Sales, Inc.*, 201 NLRB 918 (1973). He would vote subject to challenge.

## *Foremen*

The Employers employ approximately 10 foremen. There are five production foremen, two project foremen, one sheet metal foreman, one pipefitter foreman, and one shop foreman. Foremen report directly to Gary Provenzano. Gary Provenzano dispatches the production foremen to oversee three or four different field locations at a time. To accomplish this, production foremen drive from job to job. While the foremen may provide instructions to employees with regard to the job, it is up to Gary Provenzano to ensure that the instructions are carried out. While in the field, the production foremen work with their tools to help with the project's most difficult aspects. A production foreman generally has more experience than other employees, yet production foremen earn no more than most other employees: \$16-\$20 an hour.

Production foremen do not have the authority to hire other employees or effectively recommend the hiring of employees.<sup>8</sup> The production foremen do not have the authority to independently change employees' work assignments. Only Gary Provenzano has that authority. The production foremen do not have the authority to lay off, recall, discipline, reward, or send employees home.

The duties of the project foremen differ little from those of the production foremen. On a bigger project, project foremen remain with a job from its inception to its completion. Among other responsibilities, project foremen ensure that the shop fabricates those items necessary for the job, subject to the approval of Gary Provenzano. Project foremen also work with their tools alongside other employees and likewise earn \$16-\$20 an hour. Project foremen do not have the authority to hire, fire, discipline, lay off, recall, reward, or send employees home.

## *Crew Leaders*

Each team dispatched by Gary Provenzano has a person designated as a crew leader, even when the team has only two members. If there is a problem in the field, crew leaders are to call Gary Provenzano, who then either proceeds to the field location or discusses the problem with employees at the end of the day. Gary Provenzano might remove a difficult employee and replace him with someone else. Crew leaders perform work alongside other members of their team. The Employers select crew leaders from different classifications including pipefitter, plumber, and laborer. No party contends employees designated as crew leaders serve in a supervisory capacity.

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<sup>8</sup> The Employers do stage contests for all employees, including production foremen, to submit names and recommendations for hire

### *Interaction between Classifications*

The employees in the petitioned-for units substantially interact with employees in the remaining classifications. For example, on a small residential furnace job, sheet metal workers work closely with the sheet metal foreman, who makes the project measurements, with the shop foreman, who fabricates the necessary materials, and with the laborers who weld and assist the sheet metal workers in the field and in the shop.

On a commercial job, there is even more direct interaction between employees in all of the classifications. A large commercial field location would initially include a team of two or three pipefitters, a plumber, and three laborers. The pipefitter and laborer take the gas line off an old commercial boiler and decommission it. The shop foreman, mechanic, pipefitters, and laborers fabricate the boiler in the shop. A pipefitter assists in the transportation of the boiler to the field. The driver and the production foremen transport other necessary materials and components to the field during the course of the day. Laborers cut walls out so old boilers can be removed and new ones put in their place. As in a residential project, laborers help employees in the sheet metal classifications assemble sheet metal into place. Pipefitters, laborers, and even the pipefitter foreman help carry the boiler out of the building and replace it with a new one. Plumbers can also be involved at this stage. Alfred and Gary Provenzano oversee the proper placement of the new boilers. Laborers sometimes lay the block for the new wall to replace the one that is torn down. The service technicians make the connections for the furnace along with the electricians. Another service technician utilizes a check sheet to make sure the connection is a safe one. However, given the expertise of an individual employee, a sheet metal worker could wire a furnace.

### *Benefits*

All employees in the described classifications are paid hourly, earn time and a half for overtime, and enjoy the same benefits with regard to health insurance, vacation, dental, short and long-term disability, life insurance, 401K, and paid educational training up to \$1100 for outside classes.<sup>9</sup> All employees are trained with regard to safety, and all employees participate in vendor/product training arranged by the Employers on site and off site. If the training is overnight in a different location, the Employers pay room and board. All employees provide their own tools.

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<sup>9</sup> The training need not be directly related to the Employers' work. There are some limits, however, as the Employers would not pay for chiropractic training, for example.



## Analysis

Petitioners' proposed unit of electricians, pipefitters, sheet metal workers, and plumbers would not appear to consist of an amalgamation of true craft employees. Consequently, the petitioned-for unit is not appropriate as a unit separate from the Employers' other production and service employees. Further, even if the petitioned-for unit was considered a multi-craft unit, not every "arbitrary grouping of . . . crafts constitutes an appropriate collective-bargaining unit." *S.J. Groves & Sons*, 267 NLRB 175, 176 (1983). In determining whether a proposed craft unit is appropriate, the Board considers the following factors: whether the petitioned-for employees participate in a formal training or apprenticeship program; whether the work is functionally integrated with the work of excluded employees; whether the duties of the petitioned-for employees overlap with the duties of the excluded employees; whether the employer assigns work according to need rather than on craft or jurisdictional lines; and whether the petitioned-for employees share common interests with other employees, including wages, benefits, and cross-training. *Burns & Roe Services Corp.*, 313 NLRB 1307 (1994).

In the instant case, the petitioned-for employees in their respective crafts do not participate in a formal training or apprentice program. There is only one master plumber, and there is no evidence of other employees holding professional licenses. The safety training provided to all employees and the product/vendor training provided to most other employees does not constitute a formal training program.

The work of the pipefitters, electricians, sheet metal workers, and plumbers is functionally integrated with the work of the laborers, foremen, and the mechanic. The same boiler that is fabricated in the shop by the mechanic, sheet metal workers, and laborers, is installed in the field by pipefitters, plumbers and laborers. The wiring is then installed by electricians and service technicians. All of this work is carefully orchestrated under the oversight of Gary Provenzano. Employees are assigned to teams with mixed classifications. In *Longcrier*, 277 NLRB 570, 571 (1985), the Board rejected separate craft units if the employees "are in highly integrated crews that perform various jobs and work together in close proximity, functioning as a team on certain operations." Here, there is clearly an "interrelated process of installing and servicing the [Employers'] systems." *Johnson Controls*, 322 NLRB 669 (1996).

Moreover, the duties of the petitioned-for employees overlap with the duties of employees in the other classifications. In the shop, laborers weld and operate machines alongside the mechanic and sheet metal workers. Laborers cut pipe and install pipe insulation, as do the pipefitters. A pipefitter and laborer work together to take the gas line off the boiler and decommission it. The project foremen and production foremen work on the more difficult of these tasks alongside the other employees at the job sites.

The Employers also assign work outside of craft lines, taking into account the individual skills of each employee and assigning work on this basis, not on the basis of the employee's classification. Significantly, the record discloses a number of instances where laborers have been promoted to classifications in the petitioned-for unit.

The employees in the over all unit sought by the Employers share other community of interest factors. Along with the employees' similar duties, functions, and assignment to teams, the employees share common benefits and common supervision, primarily by Gary Provenzano. All employees are provided with trucks for transportation as either drivers or riders. See *Johnson Controls, Inc.*, 322 NLRB 669, 671 (1996). *Brown & Root Braun*, 310 NLRB 632 (1993). While the wages vary depending on an individual employee's experience level, the different classifications earn roughly within the same wage ranges.

With regard to the driver, Clarice Mason, I find that she should be included in the unit because she drives parts from the shop to the field, and is in contact with both groups. Any other finding would leave her without representation because she shares no community of interest with any other employee grouping. See *General Textile Mills*, 109 NLRB 263, 266 (1954).

The individuals in the foremen classifications are not Section 2(11) supervisors. The Petitioners have not introduced, nor does the record contain, any evidence of such supervisory status. A party seeking to exclude individuals as supervisors has the burden of establishing such status. *Northcrest Nursing Home*, 313 NLRB 491, 496 fn. 26 (1993). The foremen do not hire, fire, lay off, recall, change employee assignments, send employees home, reward employees, or effectively recommend these actions. The foremen's wages are commensurate with, and in many cases, lower than other employees. The foremen work with their tools alongside other employees. Although, the foremen review the work of other employees on the job site, they report discrepancies to Gary Provenzano.

5. Accordingly, I find that the following employees of the Employers constitute a unit appropriate for the purposes of collective bargaining within the meaning of Section 9(b) of the Act:<sup>10</sup>

All full-time and regular part-time electricians, sheet metal workers, pipefitters, plumbers, service technicians, laborers, production foremen, project foremen, and other foremen, mechanics, and drivers employed by the Employers at and out of their facility at 14641 East Warren Avenue, Detroit, Michigan; but excluding salespersons, and office clerical employees, guards and supervisors as defined in the Act.

Dated at Detroit, Michigan, this 23<sup>rd</sup> day of September 2002.

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William C. Schaub  
Regional Director  
National Labor Relations board  
Seventh Region  
Patrick V. McNamara Federal Building  
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Classification Numbers

440-1760-9133-1000  
440-1760-9133-2400  
440-1760-9133-5700  
440-1760-9667-6700  
177-8560-1500

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<sup>10</sup> As the Petitioners have indicated a desire to go to an election in any unit found appropriate herein, I am satisfied after an administrative review of the showing of interest that it is sufficient in the broader unit set forth.